

Attorney Docket No.: 67110070.1003
Serial No. 09/379,439

REMARKS

Claims 1-54 were originally filed in the present application. Claims 31-40, 46 and 53 are allowed. Claims 1-3, 7-11, 13, 21-30, 41, 44, 47-49, 51, 52 and 54 stand rejected under 35 U.S.C. §102. Claims 4, 14-20 and 45 stand rejected under 35 U.S.C. §103. Claims 5, 6, 12, 20, 42, 43 and 50 are objected to as being dependent from a corresponding rejected base claim, but are deemed allowable if rewritten in independent form. By this Amendment, Applicants have amended Claims 1, 2, 20, 41, 47, 48, 51, 52 and 54. Accordingly, Claims 1-54 remain pending in the present application, and Applicants assert their condition for allowance over the prior art for at least the reasons set forth in prior Amendments and the reasons set forth below.

I. OBJECTIONS

The Examiner has objected to Claims 5, 6, 12, 20, 42, 43 and 50 as being dependent from a corresponding rejected base claim, but are deemed allowable if rewritten in independent form. For the reasons set forth below, as well as the reasons asserted in prior Amendments, the independent claims from which Claims 5, 6, 12, 20, 42, 43 and 50 depend are now believed to be in condition for allowance. Accordingly, the Applicants respectfully request that the Examiner withdraw the objection with respect to these dependent claims.

The Examiner has objected to Claim 20 as lacking antecedent basis for one or more of the terms recited therein. In response, the Applicants have amended Claim 20 to correct this inadvertent error, and thank the Examiner for the diligence used in examining the pending claims.

II. REJECTION UNDER 35 U.S.C. §102

The Examiner has rejected Claims 1-3, 7-11, 13, 21-30, 41, 44, 47-49, 51, 52 and 54 under

Attorney Docket No.: 67110070.1003
Serial No. 09/379,439

35 U.S.C. §102(b) as allegedly anticipated are anticipated by U.S. Patent No. 5,784,423 to Lidsky, *et al.* However, the Applicants submit that Lidsky does not teach all of the elements set forth in amended independent Claims 1, 41, 47, 48, 51, 52, and 54, from which others of these rejected claims depend. More specifically, while Lidsky teaches an irradiating apparatus, Lidsky does not teach an apparatus having “a relative positioning apparatus operable to translate at least one surface of the target object, positioned to receive the emitted x-rays, in a direction substantially transverse to the direction of the emitted x-rays”, as recited in amended independent Claim 1.

In contrast to the present claims, Lidsky teaches an apparatus that uses a pushrod (item 48) to feed target objects (material increments 38, 42) along a direction that is substantially in-line with the irradiating photon beam (item 20). Furthermore, amended independent Claims 41, 47, 48, 51, 52, and 54 recite limitations substantially similar to these limitations added to Claim 1, and as a result, Lidsky also does not disclose all of the element in these independent claims. Accordingly, Applicants assert that independent Claims 1, 41, 47, 48, 51, 52, and 54, and the claims dependent therefrom, are not anticipated by Lidsky, and therefore respectfully request that the Examiner withdraw the rejection under 35 U.S.C. §102(b).

III. REJECTION UNDER 35 U.S.C. §103

The Examiner has also rejected Claims 4, 14-20 and 45 under 35 U.S.C. §103(a) as allegedly obvious in view of Lidsky. In response, the Applicants note that Claims 4, 14-20 and 45 are dependent claims depending from one or more of the amended independent claims listed above. Moreover, since amended independent Claims 1, 41, 47, 48, 51, 52, and 54 are believed to be patentably distinct over Lidsky, as discussed above, dependent Claims 4, 14-20 and 45 are also considered to be patentably distinct over Lidsky for the same reasons. Accordingly, Applicants

Attorney Docket No.: 67110070.1003
Serial No. 09/379,439

assert that dependent Claims 4, 14-20 and 45 are not obvious in view of Lidsky, and therefore respectfully request that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

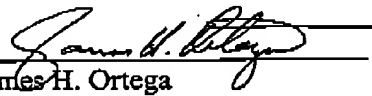
CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that pending claims 1-54 are in condition for allowance. Since the three-month deadline for filing this Amendment expired on March 3, 2004, Applicants request a one-month extension of time for filing this Amendment and that the appropriate fee be withdrawn from Deposit Account No. 13-0480, referencing Attorney Docket No. 67110070.1003. However, if it is determined that any further fees are required to cover the cost of this filing, or an overpayment has occurred, the Commissioner is authorized to charge those fees or credit any overpayment to Account No. 13-0480, referencing Attorney Docket No. 67110070.1003.

If the Examiner has any questions regarding this Amendment and Response to Office Action or the application in general, the Examiner is invited to contact Applicants' attorney or record at the below-listed telephone number.

Respectfully submitted,

Date: March 18, 2004


James H. Ortega
Reg. No. 50,554
BAKER & MCKENZIE
2001 Ross Avenue, Suite 2300
Dallas, Texas 75201
(214) 978-3000 (telephone)
(214) 978-3099 (facsimile)